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COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

LEGAL SUBCOMMITTEE

Thirty-third session

SUMMARY RECORD OF THE 577th MEETING

Held at the Vienna International Centre, Vienna,
on Wednesday, 30 March 1994, at 10 a.m.

Chairman: Mr. MIKULKA (Czech Republic)

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Organization of work

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The meeting was called to order at 10.15 a.m.

GENERAL EXCHANGE OF VIEWS (continued)

1. Mr. VINCENT (Sierra Leone) said that space exploration and activities in outer space would be of benefit to all countries, including developing States. In his delegation's view, it was necessary to define the boundary between airspace and outer space so that a new regime would apply to outer space activities. Moreover, special attention should be focused on space debris in view of the potential dangers involved.

2. His delegation had noted the progress made under agenda item 5 and hoped that no arbitrary or discriminatory conditions would be included in the principles to be evolved. All data derived from space activities should be made available to all States. Global access to such data would assist States, especially developing States, in their development, in areas relating to the environment and in handling natural disasters.

3. Sierra Leone strongly believed in the peaceful uses of outer space but, like most other developing countries, found it extremely difficult to embark on space activities. It therefore believed that no impediments or discriminatory conditions should hinder the dissemination of such knowledge to all States, including the developing countries.

4. Mr. NILI (Islamic Republic of Iran) said that, according to the fundamental principles recognized by the Committee on the Peaceful Uses of Outer Space, outer space was a common heritage of mankind and should be explored and utilized exclusively for peaceful purposes. The benefits from space programmes should therefore be shared by a greater number of States, especially developing States. Space activities had a profound impact because of their ability to improve the quality of life on Earth.

5. His delegation attached great importance to the use of space knowledge in matters of communication, the environment and disaster prevention. Access to information about space, the transfer of technology and technical assistance could reduce differences between the developed and the developing countries. International legal standards should be developed by the Subcommittee so that the benefits of outer space could be enjoyed by the greatest possible number of countries. The developing countries would be enabled better to understand their problems and solve them. The establishment of regional mechanisms within the framework of the United Nations could assist the achievement of those aims.

6. His delegation believed that the safety of outer space was the common responsibility of all countries and should be given priority consideration by the Subcommittee. It considered that nuclear power sources should not be used in outer space and that there was no need to amend the Principles Relevant to the Use of Nuclear Power Sources in Outer Space unless there was scientific and technical evidence that it was necessary.

7. Mr. Chang-Boem CHO (Observer for the Republic of Korea) said that his Government greatly appreciated the contributions of the Legal Subcommittee to formulating international treaties and sets of principles on outer space.

8. Outer space was the common heritage of mankind and not subject to national appropriation by claim of sovereignty. Remarkable scientific and technological progress was being made in outer space activities, which nowadays were no longer the monopoly of a few States. The exploration and utilization of outer space must promote the interests of all States, both developed and developing, and his delegation believed that further strengthening of international cooperation was needed, particularly in sharing space resources and technology.

9. He welcomed the continuing discussions on item 5 of the Subcommittee's agenda and considered that working paper A/AC.105/C.2/L.182/Rev.1 submitted by some of the countries of the Group of 77 (see document A/AC.105/544, annex IV) would be a very useful basis for future work. He hoped that, in a spirit of compromise, the draft principles regarding international cooperation could be adopted by consensus in the near future.

10. With regard to the definition and delimitation of outer space and the utilization of the geostationary orbit, his delegation welcomed the progress achieved at the current session but, since its Government's position had not yet been finalized, would confine itself to stressing the importance of ensuring rational, economic and equitable use of the geostationary orbit for the benefit of all mankind, due consideration being given to the special needs of the developing countries.

11. His delegation believed that the issue of space debris in the geostationary orbit must be appropriately addressed and that there was a need for increased public awareness of the problem. It supported the idea of holding a seminar on the legal implications of space debris in conjunction with the next session of the Subcommittee.

12. The Republic of Korea, which had relatively recently become a full member of the United Nations, had so far not enjoyed the privilege of being represented on the Committee on the Peaceful Uses of Outer Space. The Republic of Korea was one of the 25 largest financial contributors to the United Nations and one of the 12 largest trading nations in the world. Its space programme included the planned launching of its own communications satellite, "Mugunghwa". It had hosted the United Nations Workshop on Space Communications for Development in 1992 and had been designated as the site for the secretariat of an Asia-Pacific Satellite Communication Conference; in that connection, it was currently preparing for another workshop on satellite communications in November 1994.

13. The Republic of Korea believed that the membership of the Committee should be increased, and that it should be open to all States that were willing to discharge their responsibilities and contribute significantly to the Committee's work. His delegation hoped that its Government's aspiration to become a member of the Committee would be realized in the near future.

14. Ms. GONÇALVES (Observer for Portugal) said that, in connection with agenda item 4, she merely wished to suggest that, before deciding whether to consider the question of aerospace objects or that of space debris, the Subcommittee should seek the best information available on scientific and factual aspects as well as on the present thinking of legal experts in those fields. Such information could be obtained through questionnaires, seminars

or other means, including reports from the Scientific and Technical Subcommittee. The questionnaire on aerospace objects could be further improved, and her delegation could go along with the idea that the Legal Subcommittee should be kept expressly informed of developments in the Scientific and Technical Subcommittee so that it could make its own contribution when appropriate.

15. With regard to agenda item 5, her delegation was not against the elaboration of a set of principles on international cooperation in space activities, which would be in line with United Nations practice in other fields. For instance, the Convention on the Law of the Sea contained two chapters with very elaborate provisions on international cooperation in scientific research and on the development and transfer of marine technology, which might be useful as a guide for the Subcommittee's own work. However, since space activities were very specific in nature and some of them, in particular research and development and space exploration, were highly sophisticated and costly, it was unreasonable to suppose that most States would be directly interested in them in the foreseeable future. None the less, there was a need to make available the results of scientific research projects and scientific and technological knowledge in general to all interested countries through appropriate channels. With regard to the technology embodied in equipment or materials and to technological know-how, due regard must be paid to the intellectual property rights involved.

16. In her delegation's view, the specifics of space activities should be given further consideration when the Subcommittee dealt with the issue. The document under discussion should be further elaborated to make it more balanced, and that would certainly be necessary if a consensus was to be achieved.

17. Mr. EL HUSSEIN (Sudan) said that outer space was a domain which, if utilized judiciously and rationally, could generate great benefits for all mankind. Advances in space science and technology had put enormous resources and countless applications within reach. In the absence of an efficient global regime to govern outer space activities, the pursuit of space activities could have a harmful impact on the environment and prove highly detrimental to many technologically disadvantaged States in the developing world. Those considerations had prompted the General Assembly and various international and regional institutions to formulate appropriate legal instruments with a view to regulating the uses of outer space and to maximizing the benefits derived from them for all mankind. Among those instruments, the Principles Relevant to the Use of Nuclear Power Sources in Outer Space were particularly important.

18. His delegation would contribute in detail to the debate on agenda item 5 concerning outer space benefits.

19. Mr. GONDANE (India) said that the importance of outer space activities in maintaining international peace and security and in promoting the cause of mankind as a whole was universally accepted. It was thus necessary for the Legal Subcommittee to continue to pursue its task of developing international outer space law.

20. The question of the review of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space needed to be examined on the basis of technical developments, the latter being an area that came within the purview of the Scientific and Technical Subcommittee.

21. Regarding the definition and delimitation of outer space, India considered such a definition to be necessary. As to the character and utilization of the geostationary orbit, his delegation believed that the Subcommittee's efforts at ensuring the equitable use of the geostationary orbit - a limited natural source - by the greatest number of States should complement the technical work of the International Telecommunication Union (ITU). Working paper A/AC.105/C.2/L.192 (see annex IV to document A/AC.105/544) provided a useful basis for the Subcommittee's further deliberations.

22. As a developing country and as a country with its own modest space programmes, India was particularly interested in the question of outer space benefits. The Subcommittee should, at its current session, focus attention specifically on areas such as non-discrimination, the transfer of technology, the development of indigenous capabilities in the developing countries, and the preservation of the environment. The working paper submitted earlier by a number of countries of the Group of 77 (A/AC.105/C.2/L.182/Rev.1) constituted a viable basis for discussions in that connection.

23. Mr. SENKEVICH (Russian Federation) said that, while the Russian delegation was satisfied with the progress of discussions in plenary sessions and in the Working Groups, it wished to make its position clear on a number of issues, starting with the geostationary orbit. A good deal of attention was focused on that relatively small area of outer space on account of its particular characteristics and the rapid increase in different types of satellite systems operating in or near the geostationary orbit or passing through it. The introduction of new satellites into the orbit was already hampered by interference problems, and the collision of active satellites with space debris or other space objects crossing the geostationary orbit was likely to be a problem in future.

24. As part of outer space, the geostationary orbit belonged to the common heritage of mankind, and Russia's activities in that area were carried out in accordance with the relevant international agreements. The technical and regulatory aspects of the use of the geostationary orbit came under the competence of ITU, and were governed by a number of international instruments. While it would clearly be unwise to modify substantially the principles underlying such instruments, the Subcommittee, together with ITU, might wish to expand on them in order to accommodate new concerns relating to the geostationary orbit. In that connection, it was essential to take due account of the interests of developing countries, in keeping with the relevant provisions of the Radio Regulations. The Russian delegation welcomed the suggestions made by various speakers on the question of the geostationary orbit.

25. As far as space debris was concerned, the issue should be looked at from the right perspective. Premature action should not be taken or the current methods of study changed. Further research into the problem of space debris was clearly required, and he welcomed the proposal for an academic seminar.

26. The Scientific and Technical Subcommittee had a vital role to play in the preparation of background information required for joint drafting with ITU of texts on the geostationary orbit and related issues.

27. As to the use of nuclear power sources in outer space, his delegation was in favour of pursuing research into safety aspects. Before the Principles currently in force were amended, additional information should be obtained on the risks of using nuclear power sources.

28. The CHAIRMAN said that the Subcommittee had concluded its general exchange of views.

CONSIDERATION OF THE LEGAL ASPECTS RELATED TO THE APPLICATION OF THE PRINCIPLE THAT THE EXPLORATION AND UTILIZATION OF OUTER SPACE SHOULD BE CARRIED OUT FOR THE BENEFIT AND IN THE INTERESTS OF ALL STATES, TAKING INTO PARTICULAR ACCOUNT THE NEEDS OF DEVELOPING COUNTRIES (agenda item 5) (continued) (A/AC.105/544; A/48/20)

29. Mr. TSUBOI (Japan) said that his delegation shared the view expressed by many others that the peaceful uses of outer space could contribute significantly towards advancing the social development and welfare of all humankind, and Japan was willing to make further efforts to achieve that goal through the pursuit of international cooperation.

30. Japan's activities to date in that area included training programmes on remote-sensing technology, primarily for the countries belonging to the Association of South-East Asian Nations (ASEAN), disaster science courses for Asian and Latin American countries and training in satellite communications technology for developing countries. His country had cooperated with other countries and the European Space Agency in direct data reception from the Marine Observation Satellites and the Japanese Earth Resources Satellite, JERS-1, and the Japanese Space Agency had established a ground station at Bangkok under an agreement between Japan and Thailand. Japan had hosted an expert meeting in 1990 concerning the setting up of an international network of Earth observation satellites. It had participated with ASEAN countries in joint research into the use of remote-sensing technology and, since 1982, had been involved with Indonesia, Malaysia, the Philippines and Thailand in research on analysing the environmental characteristics of the tropics using remote-sensing data. As a contribution to research work on global changes, Japan planned to launch in 1996 the advanced Earth observation satellite ADEOS, on board which would be the sensors of the United States and France.

31. Under a joint research programme on tropical rainfall measurement with the United States, the TRMM (Tropical Rainfall Measuring Mission) satellite would be launched in 1997 to observe rainfall in tropical regions, with a view to analysing the mechanisms of global climate change. TRMM data would also be useful for disaster prevention in developing countries within those regions.

32. Mr. BARSEGOV (Russian Federation) said that discussion on item 5 had been greatly facilitated by the frank approach to the issues involved; moreover, there appeared to be a general understanding that any new forms of cooperation established must be compatible with national interests. He hoped that the views expressed thus far would serve to focus the issues more clearly in future discussions. For instance, there was clearly little sense in

discussing the "redistribution" of benefits that had not been distributed in the first place. Surely it would be more useful to look into how to create further benefits.

33. The progress made so far in the Working Group on the Benefits of Outer Space augured well for a future solution to the problem of codifying and diversifying the principles of cooperation now that a more realistic picture of what was required had emerged. The Russian Federation was ready to form partnerships and establish mutually advantageous forms of cooperation with other interested countries in the various branches of space science and technology, its associated industries and services. In such cases, the Russian Space Agency was usually the executing agency on the Russian side, which together with its counterpart would draft an agreement relating to the type of joint activities to be undertaken and relevant arrangements. Special coordinating or advisory bodies as well as working groups might be set up by the two executing agencies as required. The areas of cooperation included basic research, remote sensing, telecommunications, biotechnology, ground infrastructures and equipment; various options for the implementation of activities were available.

34. The agreements, which were subject to proper approval at agency level, set forth the guidelines and regulations on, inter alia, the provision of information and equipment, intellectual and industrial property, funding and the promotion of various forms of cooperation with companies and consortia. Agreements along those lines had already been drafted with a number of countries in Eastern Europe and Latin America. However, in view of the financial implications of such ventures, the countries interested would be well advised to give careful consideration as to whether such plans were politically and economically viable before taking any firm decisions. In conclusion, he was pleased to inform the Subcommittee of the agreement signed recently in Moscow between the Presidents of the Russian Federation and Kazakhstan for the lease of the "Baikonur" space station for a period of 20 years, with a possible ten-year extension.

35. Mr. TELLES RIBEIRO (Brazil) said that the sponsors of working paper A/AC.105/C.2/L.182/Rev.1 intended to examine in depth all the comments and suggestions made by delegations at the last meeting, and would submit replies to the Subcommittee at its next session. His delegation would, however, like to make some preliminary remarks on the main points raised.

36. It had been said that a long tradition of international cooperation in the peaceful uses of outer space already existed. The sponsors of the working paper under discussion did not deny that fact; indeed, without the existence of extensive international cooperation in the space field and the increasing benefits derived from it, the developing countries would have no appropriate context in which to manifest their aspirations.

37. It had also been said that the principles would either be binding, which would jeopardize the right of States to choose their cooperation partners, or not binding, which could make them pointless. The sponsors had never sought to impose limitations on the sovereign right of States to decide their modalities of cooperation, and they would be willing to consider a revised wording that would allay the concerns of delegations. In his delegation's view, any form of imposed cooperation would be tantamount to coercion. Under

such circumstances, it would be impossible to enlist the support of countries with space capabilities. To ensure progress in the task of the Working Group on the Benefits of Outer Space, the Subcommittee's discussions needed to take place in an atmosphere of complete transparency.

38. As to the second option, the sponsors did not believe that the alternative to a legally binding text was necessarily a set of irrelevant concepts. It should be borne in mind that many non-binding documents emanating from the United Nations had come to represent a framework for practical application or even a basis for legislation.

39. Other points raised by delegations, which would be answered at the Subcommittee's next session, included: the need for adequate financial or other compensation for space technology transfers; the need to consider questions of intellectual property of States with regard to the dissemination of space technology; the need to address security issues with regard to non-proliferation; the need to examine the practices of States regarding international cooperation in outer space; and the need for the existence in developing countries of organizations capable of engaging in cooperative enterprises, in order to allow for benefits from that cooperation.

40. In conclusion, his delegation felt that all the points at issue could be reconciled with the ultimate goals. The main challenge now lay in refining the way in which ideas were expressed, in order to eliminate doubts and misgivings.

41. Mr. MARÍA CURIA (Argentina) said that he endorsed the Brazilian delegation's comments concerning the discussion of document A/AC.105/C.2/L.182/Rev.1, of which his delegation was a co-sponsor.

42. Argentina was now building a scientific research satellite, in cooperation with the National Aeronautics and Space Administration (NASA) in the United States of America and with Brazil and Italy. Two more satellites, still in the planning stage, were being developed with NASA, with some input from Germany. Argentine enterprises, in association with Canadian and American ones, were working on a communications satellite system that was to be placed in geostationary orbit in the positions assigned to Argentina. Those examples demonstrated the importance of engaging in a broad range of space cooperation activities, which, for Argentina, meant partnership with other countries, both developed and developing.

43. Concerning the draft principles regarding international cooperation in the exploration and utilization of outer space for peaceful purposes in document A/AC.105/C.2/L.182/Rev.1, his delegation believed that the practice of States with space capabilities in the area of cooperation with developing countries should be taken into account. Questions about whether principles or guidelines were binding or not should not hold up work on the subject, since experience had shown that agreement could be reached on such matters if there was a consensus on the substance. The principles must appropriately reflect the understanding recently arrived at among States concerning the guaranteeing of intellectual property rights in the context of cooperation.

44. If the Subcommittee did not develop principles concerning cooperation in the peaceful uses of outer space, it would be forfeiting a historic

opportunity and failing to discharge the mandate given to it by the General Assembly. His delegation was sure that the progress could be made at the next session in the development of such principles.

45. Mr. CELEDON (Chile) said that his delegation, which had co-sponsored document A/AC.105/C.2/L.182/Rev.1, believed that significant progress had been made at the current session. Chile welcomed the opinions expressed by the delegations of Canada, France and the Russian Federation on the proposed principles, which could now be revised by the sponsors on the basis of such comments.

46. The principle that exploration of outer space should be carried out for the benefit of all States must not be seen simply in terms of the disparity between the space capabilities of developed countries and those of developing countries, nor was it merely a matter of bilateral cooperation. What was needed was to find an equitable way of enabling all States to enjoy the benefits of space exploration, as an inherent right.

47. Mr. HE QIZHI (China) said that his delegation agreed with the majority of delegations that, if the Subcommittee exerted itself, it could achieve consensus. He welcomed the analysis made by the representative of Brazil of the draft principles. Work could continue on the draft principles without prejudging the issue of whether the document would have binding force or not. His delegation did not believe that the only alternative to having a legally binding text was to formulate platitudes. Even if the principles did not have binding force, they could serve as an inspiration for legislative activity and express a general legal view. Subsequently, under the right conditions, the document could be converted into one having binding force.

QUESTION OF EARLY REVIEW AND POSSIBLE REVISION OF THE PRINCIPLES RELEVANT TO THE USE OF NUCLEAR POWER SOURCES IN OUTER SPACE (agenda item 3)

48. The CHAIRMAN drew attention to the Subcommittee's report on its thirty-second session (A/AC.105/544), in particular to chapter I and annex I. The Subcommittee's work had been reviewed at the thirty-sixth session of the Committee on the Peaceful Uses of Outer Space. The Committee's report was contained in document A/48/20. In resolution 48/39, the General Assembly had recommended that the Subcommittee should continue consideration of the item taking into account the concerns of all countries, especially the developing countries. The question of the use of nuclear power sources in outer space had been considered by the Scientific and Technical Subcommittee at its recent session. Chapter IV of the Scientific and Technical Subcommittee's report (A/AC.105/571) outlined the discussion in the Subcommittee, and the report of the Working Group on the Use of Nuclear Power Sources in Outer Space was contained in annex III of that document.

ORGANIZATION OF WORK

49. The CHAIRMAN said that it would seem feasible to conclude the present session ahead of the scheduled date. If there was no objection, he would take it that the Subcommittee wished to end its current session on Wednesday, 6 April 1994.

50. It was so decided.

The meeting rose at 11.50 a.m.